

**State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA**

**Government Code § 11126 (a), (c)(3), and (e)
For**

Wednesday, March 18, 2009

10:00 AM

**Sacramento, California
&
West Covina, California**

**TO: Members of the California Occupational Safety and Health
Appeals Board**

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: March 5, 2009

RE: Closed Session of the Board on March 18, 2009

Pursuant to Government Code section 11126, subdivisions (a), (c) (3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge (ALJ). The decision summarizes the evidence received from the Division of Occupational Safety and Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. DANIEL L. ELLISON DBA AUBURN CONCRETE PUMPING & MATERIAL BELTING, 07-R2D1-2507 AND 2508
2. JAY ROBERTS CLEANING COMPANY, 08-R4D1-3302 THROUGH 3304
3. SACRAMENTO BLDG. PRODUCTS DBA MASCO CONTR. SVS. CORP., 07-R2D5-0912 THROUGH 0914
4. M. DAVID PAUL & ASSOC., 08-R4D3-0595 AND 0596

DECISION AFTER REMAND

1. DSS ENGINEERING CONTRACTORS, 09-R2D2-1023

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge (ALJ) after a pre-hearing conference in which the Division of Occupational Safety and Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. ABC SUN CONTROL, 07-R6D2-4936 THROUGH 4938
2. AMERICAN HOTEL REGISTER COMPANY, 07-R3D3-4692 AND 07-R3D3-5262
3. AMERICAN REMEDIAL TECHNOLOGIES, 08-R4D2-3154 THROUGH 3156
4. ANTELOPE VALLEY HOSPITAL, 08-R4D3-2660 AND 2661
5. APOLLO ENERGY III DBA PROMETHEUS ENERGY COMPANY, 08-R6D4-4420
6. A-RV REPAIR, 08-R4D5-2150
7. ASSOC. READY MIXED CONCRETE, INC., 08-R5D2-1774 AND 1776
8. AT & T, 08-R1D4-0272 AND 0273
9. AT & T, 08-R3D3-2076
10. AT & T MOBILITY, 08-R1D1-1691
11. AYALA CORPORATION, 07-R2D5-0564 AND 0565
12. BARCEWSKI, INC. DBA SUNSHINE CONSTRUCTION, 07-R1D1-5265 AND 5266
13. BBSI, 08-R4D4-1530 AND 1531
14. BODEGA CHOCOLATES, 08-R6D2-3085
15. BOSKOVICH FARMS, INC., 08-R4D5-2662
16. BUBBLE BATH CAR WASH, 08-R3D2-2910 AND 08-R3D2-3786 AND 3787
17. CABRAL ROOFING & WATERPROOFING CORPORATION, 08-R4D4-1533

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18. CARWOOD HAND CARWASH & DETAIL CENTER, 08-R6D5-2796 AND 2797
19. CENTRAL COLD STORAGE, 08-R6D3-2354 THROUGH 2356
20. CENTRAL VALLEY CONCRETE, INC., 07-R2D4-1375 THROUGH 1378
21. CHILDHELP, INC., 09-R3D1-0411 THROUGH 0414
22. COFFMAN SPECIALTIES, INC., 09-R3D2-0080
23. COLES CARBIDE CORPORATION, 08-R4D3-2012 THROUGH 2014
24. CONFECTIONS SOLUTIONS, 08-R6D2-1923 AND 1924
25. COSTCO, 08-R2D2-0281
26. COSTCO WHOLESALE CORP., 09-R4D3-0300
27. CUSTOM WOOD PRODUCTS, 07-R2D5-0563
28. D. R. HORTON, INC., 07-R1D2-5268
29. ECKER CONCRETE, 08-R4D2-4372 THROUGH 4374
30. ELITE FLOWER SERVICE, 08-R4D1-4215 AND 4216
31. EMPLOYERS RESOURCE, INC., 07-R2D1-3302 THROUGH 3304
32. THE ENKEBOLL CO., DBA ENKEBOLL DESIGNS, 08-R6D2-2151 THROUGH 2160
33. ENR, INC., 08-R6D2-2030 AND 2031
34. ENVIROKLEEN CONTRACTORS, INC., 08-R2D1-0278 THROUGH 0280
35. JOHN ESPIL, INDIVIDUAL DBA JOHN ESPIL SHEEP CO., INC., 07-R2D3-5300
36. ESSENTIAL PHARMACEUTICAL CORP., 08-R4D4-1764 THROUGH 1766
37. FOOD FINDERS, 08-R4D1-4296
38. FOODMAXX, 08-R4D5-2425
39. FRUITI POPS, INC., 08-R6D2-1451 AND 1452
40. G & A PALLETS DBA G & F PALLETS, 08-R6D2-2637 AND 2638

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41. J. GALLEGOS, INC., 07-R2D3-5312
42. GOLDEN STATE BORING & PIPEJACKING, INC., 05-R5D2-2359
43. GOLDEN WEST INDUSTRIES, INC., 08-R3D2-3930
44. ERNEST SANCHEZ GOMEZ, 08-R4D3-2282
45. GREGG INDUSTRIES, INC., 08-R4D4-1913
46. HAR BRO CONSTRUCTION, 09-R3D2-0293
47. HILLSTONE RESTAURANT GROUP, INC. DBA BANDERA RESTAURANT,
09-R4D1-0257
48. HILTON LOS ANGELES AIRPORT, 07-R4D1-4722 AND 4723
49. HI-SHEAR CORP./LISI AEROSPACE, 08-R3D5-3141
50. HOME DEPOT, 09-R3D5-0044 AND 0045
51. HOME GOODS STORE, 08-R3D2-3694
52. INSURENOW INSURANCE SERVICES, INC., [CONFIE SEGUROS CALIFORNIA,
INC.], 09-R3D1-0007 AND 0008
53. ISA CONTRACTING SERVICES, INC., 08-R2D4-0706
54. JMS WOOD PRODUCTS, 08-R6D2-2539 THROUGH 2542
55. JSL FOOD GROUP, 08-R6D2-1791 THROUGH 1793
56. KW BUILDERS, 07-R2D3-5303
57. LAUSD KING DREW MAGNET HIGH SCHOOL, 08-R4D2-4267
58. WILLIAM JAMES LICHA, 08-R4D3-1529
59. LTL COMPANIES DBA V & L PROPERTY MANAGEMENT, 08-R4D1-4179 AND
4180
60. MAGANA LABOR SERVICES, 08-R6D2-3550 AND 3551
61. MARCO CRANE & RIGGING COMPANY, 08-R4D4-1425 THROUGH 1428

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62. DUNCAN MCCORMACK III, 08-R2D1-2304
63. MISSION PLASTICS, INC., 08-R6D2-4188
64. MOHAWK FIELD SERVICES, INC. 08-R4D1-3960
65. MONAMI TEXTILE, 07-R4D2-5204 THROUGH 5206
66. MONTCLAIR WOOD CORPORATION, 08-R6D2-3168 THROUGH 3174
67. MONTEBELLO CONTAINER CORP., 08-R4D4-1902 AND 1903
68. NATIONAL STEEL AND SHIPBUILDING COMPANY, 08-R6D2-2965 THROUGH 2968
69. NEMO'S BAKERY, INC., 08-R3D2-3435 THROUGH 3437
70. NEW DIMENSION MASONRY, INC., 08-R3D2-3743
71. NOE VARGAS DBA BELLA'S FASHION, 08-R6D5-4020 THROUGH 4024
72. NURSTECH, INC., 07-R2D3-5299
73. OMEGA EXTRUDING CORP. OF CALIFORNIA, 08-R4D2-4043 THROUGH 4046
74. CHARLES O'NEILL, 08-R6D2-3113 AND 3114
75. PACIFIC COAST BUILDING PRODUCTS, INC., DBA PACIFIC COAST SUPPLY, LLC, 07-R2D1-2509
76. PACIFIC DRILLING COMPANY, 08-R3D2-2045 THROUGH 2047
77. PARK WEST LANDSCAPE, 09-R4D1-0383 AND 0384
78. KEVIN PATZKOWSKY, BUILDING CONTRACTOR, 07-R2D3-5313
79. PEDRO'S DRYWALL, 08-R6D5-2574 AND 2575
80. P G & E, 07-R2D5-0559
81. PLYCRAFT, INC. DBA A. JOFFE MFR., 08-R6D2-1437 THROUGH 1450
82. PRESTIGE CUSTOM CLEANERS, INC., 08-R4D1-4703

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83. PROGRESSIVE LOGISTICS SERVICES, 08-R3D3-2312 AND 2313
84. RAMAR PRODUCTION SERVICES, INC., 08-R6D5-4383 AND 4384
85. REECE STAIR, INC., 07-R2D1-5296 AND 5297
86. ROCKING CHAIR RANCH, 08-R2D5-1592 AND 1593
87. RODERICK INDUSTRIES, INC., 08-R6D2-3666 THROUGH 3669
88. RUBIO'S RESTAURANTS, INC., 08-R3D2-3207
89. SAFEWAY, INC., 08-R1D5-2439
90. SAN FRANCISCO FIRE DEPARTMENT – STATION 26, 07-R1D1-3001
91. SAN FRANCISCO OPERA ASSOCIATION, 08-R1D1-0876 THROUGH 0879
92. SANTA CLARA COUNTY SOCIAL SERVICES AGENCY, 08-R1D2-1482
93. SCAPA NORTH AMERICA, 08-R4D1-2407 AND 2408
94. SCRIBNER ENGINEERING, INC. DBA SCRIBNER PLASTICS, 08-R2D1-3876
95. SCW SCRAPE CERTIFY WELDING, 08-R3D2-5020 THROUGH 5022
96. SELECT STAFFING SOLUTIONS, 08-R4D3-1358
97. SHEA KENNY JV, 08-R5D3-1919
98. SINICROPE & SONS, INC., 08-R6D2-2741 THROUGH 2746
99. SKOVER & SONS CORP., 07-R2D1-5294 AND 5295
100. SPACE SYSTEMS LORAL, 08-R3D5-4214
101. SPECIALTY CRANE & RIGGING CORP., 08-R4D3-1423 AND 3089
102. SUPER CENTER CONCEPTS, INC. DBA SUPERIOR GROCERS, 08-R6D2-4057
THROUGH 4059
103. TAHOE TRUCKEE SIERRA DISPOSAL CO., INC. DBA EASTERN REGIONAL
LANDFILL, 07-R2D1-4327

104. TANIMURA & ANTLE FRESH FOODS, INC., 08-R4D3-4706
105. TEIXEIRA FARMS DESERT, INC., 08-R3D2-3505 AND 3606
106. UC LOS ANGELES – FACILITIES MANAGEMENT, 08-R4D1-4701 AND 4702
107. ULTIMATE NUT COMPANY, INC. DBA ERINS GOURMETS APPLE, 08- R6D2-2025 THROUGH 2029
108. U.S. GRANITE, 07-R2D1-4629 AND 4630
109. VALERO WILMINGTON ASPHALT PLANT, 08-R6D4-3376 THROUGH 3379
110. VOLT TEMPORARY STAFFING, 08-R4D5-1645
111. WASHOE BUILDING SUPPLY, 07-R2D1-5026
112. WELDWAY CONSTRUCTION, INC., 07-R2D4-4230 AND 4231
113. WESTERN EXTERMINATOR CO., 08-R4D1-4132
114. WILD ATTIRE, INC., 09-R3D1-0009

ORDERS DISMISSING APPEALS:

1. A-CAL CONCRETE, INC., 07-R2D1-5292
2. JOAQUIN CHAN STUCCO, 08-R1D4-9459
3. ELITE FASHION, INC., 08-R6D2-2079 THROUGH 2085
4. GREAT SCOTT TREE SERVICE, 08-R3D5-0886 AND 0887
5. INJEX INDUSTRIES, INC., 08-R1D4-9460
6. KAUVAKA GENERAL CONSTRUCTION, 07-R1D4-131 THROUGH 133
7. KENMARK CONSTRUCTION, INC., 08-R1D3-9458
8. SAN DIEGO METAL PROCESSING, INC., 08-R3D2-9461
9. DAVID STOUPAKIS DBA DEVORE TRUCK & AUTO WRECKING, 07-R3D3-5185 AND 5186

10. SUB STATION, 08-R2D1-9464
11. TADA CATERING, LLC, 08-R3D3-9462
12. WALL TECH INTERIORS, INC., 08-R4D2-9463
13. WESTCON MICROTUNNELING, 04-R5D2-1229 AND 1230 and 04-R5D2-2590

ORDERS DENYING – DISMISSING LATE APPEALS

1. BASANTY CONSTRUCTION, INC., 09-R1D2-9052
2. PCC LOGISTICS, 09-R1D4-9059
3. SANTOS CONCRETE PUMPING SERVICE, 09-R1D2-9053

ORDERS DENYING LEAVE TO FILE LATE APPEALS

1. ART ARAGON DBA MILLENIUM GUNITE, INC., 09-R4D1-9058
2. BHANDAL BROS. TRUCKING, INC., 09-R6D1-9060
3. LUIS ESPARZA SERVICES, INC., 09-R4D3-9055
4. STEVE& BARRY'S, 09-R3D3-9054

ORDERS GRANTING LEAVE TO FILE LATE APPEALS

1. BIG LOTS, INC., #4463, 09-R2D4-9056
2. C & N MECHANICAL, 09-R4D1-0668
3. INNOVATIVE CONSTRUCTION & DEVELOPMENT, 09-R4D2-0660

STIPULATIONS:

1. NATIONAL STEEL AND SHIPBUILDING COMPANY, 08-R6D2-0499
2. NATIONAL STEEL AND SHIPBUILDING COMPANY, 08-R6D2-1433
3. NATIONAL STEEL AND SHIPBUILDING COMPANY, 08-R6D2-1434
4. NATIONAL STEEL AND SHIPBUILDING COMPANY, 08-R6D2-1435
5. TANIMURA & ANTLE, 07-R2D5-3314 AND 3315

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety and Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. ARNIE'S SUPPLY SERVICE, 08-R4D2-2784 THROUGH 2786
2. FOWLER LABOR SERVICES, INC., 08-R2D5-9387
3. HB PARKSO CONSTRUCTION, INC., 07-R4D2-1730 AND 1731
4. KIEWIT/FCI/MANSON (KFM), A JOINT VENTURE, 06-R1D4-2452 AND 2453
5. NORSOL AUTOWASH, INC. DBA L ST. CAR WASH & DETAIL, 07-R1D4-3098 AND 3099
6. SANTOS CONCRETE PUMPING SERVICE, 09-R1D2-9053
7. SCIENCE APPLICATIONS INTERNATIONAL CORPORATION (SAIC), 03-R3D2-2201

DENIAL OF PETITION FOR RECONSIDERATION

1. BIMBO BAKERIES, U.S.A., 05-R6D2-0856 AND 0857

DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

1. A & C LANDSCAPING, INC. aka A & C CONSTRUCTION, INC., 03-R4D4-4791
2. AC FRAMERS INC., 03-R2D3-3475
3. AMISH COUNTY GAZEBOS, INC., 08-R6D2-227
4. ASC PROFILES, INC., 06-R2D1-1181
5. ANNING-JOHNSON COMPANY, 06-R1D3-1976
6. BART, 03-R1D1-5170
7. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217

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8. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
9. BLF, INC. dba LARRABURE FRAMING, 02-R4D1-4675 THROUGH 4680
10. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
11. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
12. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
13. CALIFORNIA FAMILY FITNESS, 03-R2D1-95 AND 96
14. CALIFORNIA FRESH FARMS, 06-R2D4-4127
15. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
16. CVS PHARMACY GARFIELD BEACH LLC, 08-R3D1-9368
17. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
18. DAVIS BROTHERS FRAMING, INC., 03-R3D1-114
19. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
20. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
21. DUKE PACIFIC, INC., 08-R3D3-574
22. DYNALECTRIC, 03-R1D1-4101
23. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
24. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
25. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
26. FORTUNA IRON WORKS 06-R2D3-4222
27. G.T. ALDERMAN, INC., 05-R4D3-3513
28. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
29. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322

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30. GLASS PAK, 03-R2D2-750 AND 751
31. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
32. HELPMATES STAFFING SERVICES, 05-R3D3-2239
33. THE HERRICK CORP., 07-R3D1-495
34. HUSSMAN CORPORATION, 03-R3D1-2939
35. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
36. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
37. JENSEN PRECAST, 05-R2D1-2377
38. JOHN LAING HOMES, 04-R3D1-194 AND 195
39. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
40. KELLY SERVICES, INC., 06-R1D2-1024
41. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323
42. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
43. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
44. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
45. BILL NELSON GENERAL ENGINEERING & CONSTRUCTION, 06-R2D5-1552
THROUGH 1554
46. O & M INDUSTRIES, 04-R1D5-1597
47. PMR RACE CARS, 03-R3D3-1825
48. POUK & STEINLE, INC., 03-R4D2-1495 AND 1496
49. R & L BROSAMER, INC., 03-R1D5-4832
50. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
51. STACY & WITBECK, INC., 05-R1D1-1142

- 52. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688
THROUGH 1692
- 53. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
- 54. A. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT AGGREGATES,
04-R5D2-850 AND 851
- 55. A. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650
AND 2651
- 61. A. TEICHERT AGGREGATES, 04-R5D1-2982
- 62. TRIO METAL, 03-R4D4-317
- 63. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
- 64. UNITED AIRLINES DBA UNITED AIRLINES SFO SYC, 00-R1D3-2844
- 65. UNITED PARCEL SERVICE, 07-R3D3-3322
- 66. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
- 67. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802

PENDING LITIGATION:

(If the Division of Occupational Safety and Health or the Employer disagrees with a decision after reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

- 1. HARRIS CONSTRUCTION COMPANY, INC., 07CS00518 (02-3914)
- 2. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-
0005631-CU-WM-NC, (01-4344/4345)
- 3. J.F. SHEA CONSTRUCTION, INC. (DOSH V OSHAB), 34-2007-00882187-CU-WM-
GDS, (02-801)
- 4. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB), 34-2007-
00882192-CU-WM-GDS, (01-3261)

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5. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
6. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (00-440)
7. KHS & S CONTRACTORS, 32-2008-00107284-CU-WM-GDS CJC (06-2759)
8. ARTHUR J. BREWSTER CORP. dba PRESTIGE KITCHENS, INC., 30-2008-00110573 (08-1121)
9. EMPIRE PRO-TECH INDUSTRIES, 37-2008-00091916-CU-WM-CTL (07-2837)
10. MENDOTA UNIFIED SCHOOL DISTRICT, 08-CE CG 04 324 (07-3572)
11. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
12. INTERNATIONAL TRANSPORTATION SERVICE (07-3824)
13. UNITED AIRLINES, 07CS00331 (00-2844)
14. SOUTHERN CALIFORNIA EDISON COMPANY v CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD, BS 119297, LOS ANGELES SUPERIOR COURT (08-9062)

APPELLATE COURT:

1. MURRAY COMPANY, BS112469
2. HARRIS CONSTRUCTION COMPANY, INC. 07CS00518 (02-3914)

OTHER LEGAL MATTERS:

(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)

PERSONNEL:

(Issues regarding staff.)

Any matter not completed at this Closed Session may be continued to subsequent meetings.